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November 29, 2005

By Electronic Filing

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

**Re: Television Station Section 339(a)(2)(D)(vii) Waiver Request
WUTV-DT, Buffalo, NY (FIN: 415)
MB Docket No. 05-317**

Dear Ms. Dortch:

Pursuant to Section 339 (a)(2)(D) of the Communications Act of 1934, as amended by the Satellite Home Viewer Extension and Reauthorization Act of 2004 (“SHVERA”),¹ WUTV Licensee LLC, the permittee of WUTV-DT, Buffalo, New York (“WUTV”), hereby requests a six-month waiver of the FCC’s rule permitting satellite subscribers to qualify, under a digital signal strength test, for satellite retransmission of distant digital network signals.² By statute, a waiver of the testing is warranted, *inter alia*, if a station’s digital signal coverage has been limited as a result of the need for international coordination or approvals. *See* 47 U.S.C. § 339(a)(2)(D)(viii)(I). As explained below, WUTV only recently received authorization to construct its maximized facility as a result of a two-year delay in obtaining Industry Canada approval for its digital station. Accordingly, a waiver is warranted here.

In 1999, WUTV timely filed its maximization application for its digital facility. In May 2001, the FCC informed WUTV that the application could not be granted because

¹ *See* 47 U.S.C. § 339(a)(2)(D) as amended by Section 204 of SHVERA.

² *See* Public Notice, DA 05-2979 (November 17, 2005).

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it failed to protect two Canadian DTV allotments adequately. WUTV submitted an amendment, which Industry Canada determined over two years later in September 2004 to be acceptable. In October 2004, however, the FCC informed WUTV that the maximization application could not be granted because it would cause predicted interference to a new NTSC television station in Bath, New York. WUTV immediately amended its application, proposing a digital facility with reduced predicted interference to the Bath, New York station. The FCC recently approved the amended application. *See* Public Notice, Report No. 46067, at p. 15 (September 12, 2005). WUTV is presently constructing its maximized digital facility and providing limited DTV service at low power pursuant to special temporary authority.

Accordingly, this waiver request meets the criterion specified in Section 339(a)(2)(D)(viii)(I) and should be granted. If there are any questions concerning this request, please contact the undersigned.

Very truly yours,

/s/
Kathryn R. Schmeltzer
Tony Lin
Counsel for WUTV Licensee LLC

cc: Nazifa Sawez (by hand delivery)